IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8645 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

LAXMANBVHAI R GANDHI

Versus

NARAYAN V MODI

Appearance:

MR PM BHATT for Petitioners

MR RC KODEKAR, AGP for Respondent No. 1

DELETED for Respondent No. 3

MRS SIDDHI D TALATI for Respondent No. 4

CORAM : MR.JUSTICE J.M.PANCHAL

Date of decision: 11/08/2000

ORAL JUDGEMENT

This petition, which is filed under Articles 226 & 227 of the Constitution, is directed against order

dated June 8, 1990, rendered by the State Government by which application submitted by the petitioners under section 20 of the Urban Land (Ceiling and Regulation) Act, 1976 to exempt lands in question from the provisions of Chapter-III of the Urban Land (Ceiling and Regulation) Act, 1976, is rejected.

2. The original owners of the disputed lands had submitted Form No.1 under section 6 of the Urban Land (Ceiling and Regulation) Act, 1976 ("the Act" for short). The Competent Authority had held that the original owners were holding excess lands. That order was challenged by them in appeal before the Urban Land Tribunal, which was dismissed. Thereupon, they had filed Special Civil Application No.4826/92. Meanwhile, the present petitioners had also submitted an application under section 20 of the Act claiming that the disputed lands should be exempted from the provisions of Chapter-III of the Act. The said application was rejected by the Government vide order dated June 8, 1990, which is challenged in the present petition.

3. It may be mentioned that the Parliament has enacted The Urban Land (Ceiling and Regulation) Repeal Act, 1999 by which the Urban land (Ceiling and Regulation) Act, 1976 is repealed. Section 4 of the Repealing Act provides that all proceedings relating to any order made or purported to be made under the repealed Act pending immediately before the commencement of the Act, before any Court, Tribunal or other authority, shall abate. The proviso to the said section specifies that section 4 shall not apply to the proceedings relating to sections 11, 12, 13 & 14 of the repealed Act in so far as such proceedings are relatable to the land, possession of which has been taken over by the State Government or any person duly authorised by the State Government in this behalf or by the competent authority. The record does not indicate that either the State Government or the Competent Authority has taken possession of the lands in question which were declared to be excess lands by the Competent Authority. Mr. R.C.Kodekar, learned A.G.P. has produced a copy of letter dated August 10, 2000 addressed by the Competent Authority and Deputy Collector, ULC and Land Reforms (Appeals), Ahmedabad, to the learned Government Pleader, Gujarat High Court, Ahmedabad. In the said letter it is mentioned that so far as excess lands are concerned, proceedings under section 10(1) of the repealed Act were initiated, but possession of the disputed lands was not taken. By the said letter learned Government Pleader has been requested to make appropriate representation accordingly before the

Court. A copy of the letter dated August 10, 2000 received by the Government Pleader is ordered to be taken on record of the case. There is no manner of doubt that though the lands were declared to be excess lands under the provisions of the repealed Act, possession of the lands was not taken over either by the Government or by the Competent Authority and, therefore, the petition will have to be treated as having abated in view of the provisions of section 4 of the repealing Act. As the petition has abated, the same deserves to be disposed of accordingly. It may be mentioned that Special Civil Application No. 4826/92 to which reference is made earlier, is also disposed of by the Court (Coram : S.K.Keshote, J.) on October 29, 1999 as having abated.

For the foregoing reasons, it is held that the petition has abated and is dismissed accordingly, with no order as to costs.

(J.M.Panchal, J.)